

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

Case No. *2011-939*

13 **AMANDA LINN BUSHNELL**
14 **9951 Lemon Street**
Villa Park, CA 92861

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about December 20, 2010, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nurse License from Amanda Linn
24 Bushnell (Respondent). On or about December 17, 2010, Amanda Linn Bushnell certified under
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on February 16, 2011.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3) (A) Done any act that if done by a licentiate of the business or profession
2 in question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the
4 crime or act is substantially related to the qualifications, functions, or duties of the
5 business or profession for which application is made. . . .

6 7. Section 482 of the Code states:

7 Each board under the provisions of this code shall develop criteria to evaluate
8 the rehabilitation of a person when:

9 (a) Considering the denial of a license by the board under Section 480; or

10 (b) Considering suspension or revocation of a license under Section 490.

11 Each board shall take into account all competent evidence of rehabilitation
12 furnished by the applicant or licensee.

13 8. Section 2761 of the Code states:

14 The board may take disciplinary action against a certified or licensed nurse or
15 deny an application for a certificate or license for any of the following:

16 (a) Unprofessional conduct, which includes, but is not limited to, the
17 following:

18

19 (f) Conviction of a felony or of any offense substantially related to the
20 qualifications, functions, and duties of a registered nurse, in which event the record of
21 the conviction shall be conclusive evidence thereof. . . .

22 9. Section 2762 of the Code states:

23 In addition to other acts constituting unprofessional conduct within the meaning
24 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
25 licensed under this chapter to do any of the following:

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27 (b) Use any controlled substance as defined in Division 10 (commencing with
28 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
dangerous or injurious to himself or herself, any other person, or the public or to the
extent that such use impairs his or her ability to conduct with safety to the public the
practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption,
or self-administration of any of the substances described in subdivisions (a) and (b) of
this section, or the possession of, or falsification of a record pertaining to, the
substances described in subdivision (a) of this section, in which event the record of
the conviction is conclusive evidence thereof. . . .

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REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1444 states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

11. California Code of Regulations, title 16, section 1445 states:

(a) When considering the denial of a license under Section 480 of the code, the board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant. . . .

FIRST CAUSE FOR DENIAL OF APPLICATION

(January 29, 2009 Criminal Convictions for DUI on November 29, 2008)

12. Respondent's application is subject to denial under sections 480, subdivision (a)(1) of the Code in that she was convicted of a crime that is substantially related to the qualifications, duties, and functions of a registered nurse. The circumstances are as follows:

a. On or about January 29, 2009, in a criminal proceeding entitled *People of the State of California v. Amanda Linn Bushnell*, in Orange County Superior Court, case number

1 09CM00168, Respondent was convicted on her plea of guilty to violating Vehicle Code section
2 23152, subdivision (a), driving under the influence of alcohol; and Vehicle Code section 23152,
3 subdivision (b), driving with a blood alcohol concentration (BAC) of .08 or more, misdemeanors.
4 The court also found true the allegation that Respondent's BAC was .20 percent or more.

5 b. As a result of the convictions, on or about January 29, 2009, Respondent
6 was sentenced to three years informal probation, and ordered to complete a nine-month Level 2
7 First Offender Alcohol Program, a MADD Victim's Impact Panel, and pay fines, fees, and
8 restitution in the amount of \$1,673.50.

9 c. The facts that led to the convictions are that on or about the early morning of
10 November 29, 2008, a California Highway Patrol (CHP) officer observed a vehicle, driven by
11 Respondent, drifting in and out her lane of travel numerous times. The officer conducted a traffic
12 stop. Upon contact with Respondent, the officer noted that there was a strong odor of an
13 alcoholic beverage emanating from within the vehicle and on Respondent's breath. Her eyes
14 were red and watery, and her speech was slurred. Respondent admitted to consuming two beers
15 earlier in the evening. Respondent was asked to exit her vehicle and as she walked to the
16 shoulder of the road, it was noted that she was unsteady on her feet. Respondent submitted to a
17 series of field sobriety tests which she was unable to perform as explained and demonstrated.
18 Respondent provided two breath samples for a preliminary alcohol screening that were analyzed
19 at .221 and .217 percent BAC. Respondent was arrested and taken to the Orange County Jail
20 where she provided a blood sample that was analyzed with a BAC of .22 percent.

21 **SECOND CAUSE FOR DENIAL OF APPLICATION**

22 **(Unprofessional Conduct - Dangerous Use of Alcohol)**

23 13. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
24 of the Code in that on or about November 29, 2008, Respondent used alcoholic beverages to an
25 extent or in a manner that was dangerous and injurious to herself and the public when she
26 operated a motor vehicle while under the influence of alcohol, as detailed in paragraph 12, above,
27 which is a violation of section 2762, subdivision (b) of the Code for a licensed registered nurse.

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1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 **(Unprofessional Conduct - Conviction of Alcohol-Related Offenses)**


3 14. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
4 of the Code in that on or about January 29, 2009, Respondent was convicted of criminal offenses
5 involving the consumption of alcohol as detailed in paragraph 12, above, which is a violation of
6 section 2762, subdivision (c) of the Code for a licensed registered nurse.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

- 10 1. Denying the application of Amanda Linn Bushnell for a Registered Nurse License;
11 2. Taking such other and further action as deemed necessary and proper.

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14 DATED: 5-24-11


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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